

FIREMAN'S FUND AGRIBUSINESS,)	AGBCA No. 2005-113-R
(Wilwand Compliance))	
)	
Appellant)	
)	
Representing the Appellant:)	
)	
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)	
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BOARD RULING ON MOTION FOR RECONSIDERATION

January 25, 2005

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

This appeal arises out of a Standard Reinsurance Agreement (SRA) between Fireman's Fund Agribusiness (Fireman's Fund) and the Federal Crop Insurance Corporation (FCIC) for the 2000 crop year. On March 12, 2004, the Risk Management Agency (RMA) Deputy Administrator for Compliance issued a Final Administrative Determination denying Fireman's Fund's request for reconsideration of a disputed compliance office determination. RMA is an agency of the U. S. Department of Agriculture with decision making authority in FCIC matters. Fireman's Fund received the decision March 17, 2004. After Fireman's Fund's initial failed attempts at filing using a delivery means other than the U. S. Postal Service, the appeal was received at the Board July 13, 2004, 118 days after Fireman's Fund's receipt of the determination. Because appeals of disputed FCIC determinations must be filed no later than 90 days after receipt of the determination, the parties were asked to file jurisdictional briefs. FCIC filed a Motion to Dismiss with Brief in Support of Motion to Dismiss. Fireman's Fund filed a Jurisdictional Brief. In a ruling dated October 14,

2004, the Board held that the appeal was untimely and dismissed it for lack of jurisdiction. Fireman's Fund Agribusiness, AGBCA No. 2004-189-F, 04-2 BCA § 32,779. Fireman's Fund has filed a Motion for Reconsideration. FCIC has filed a Reply Brief in Support of Dismissal and in Opposition to Motion for Reconsideration.

Reconsideration is discretionary with the Board and will not be granted in the absence of compelling reasons, i.e., clear error of fact or law, or newly discovered evidence that could not have been discovered at the time of the original proceeding. Reconsideration is not intended to permit a party to reargue its position or to present additional arguments that could have been presented originally. Thorco, Inc., AGBCA No. 2003-157-R, 03-2 BCA ¶ 32,281; John Blood, AGBCA No. 2002-114-R, 02-1 BCA ¶ 31,830, Thomas B. Prescott, AGBCA No. 2000-108-R, 00-1 BCA ¶ 30,722; Timber Rock Reforestation, AGBCA No. 97-194-R, 98-1 BCA ¶ 29,360; Rain & Hail Insurance Service, Inc., AGBCA No. 97-180-R, 97-2 BCA ¶ 29,121; White Buffalo Construction, Inc., AGBCA No. 95-221-R, 96-1 BCA ¶ 28,050. Fireman's Fund has presented no argument which could not have been made in response to the Motion to Dismiss.

RULING

The Motion for Reconsideration is denied.

ANNE W. WESTBROOK

Administrative Judge

Concurring:

HOWARD A. POLLACK

Administrative Judge

JOSEPH A. VERGILIO

Administrative Judge

Issued at Washington, D.C.

January 25, 2005